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IN THE

Supreme Court of the United States

OCTOBER TERM, 1946

No. .....

NICHOLAS J. CURTIS,

Petitioner,

vs.

UTAH FUEL COMPANY, GUY L. FAKE, U. S. DISTRICT JUDGE, ET AL.,

Respondents.

BRIEF OF RESPONDENTS, UTAH FUEL COMPANY, ET AL., IN OPPOSITION TO PETITION OF NICHOLAS J. CURTIS FOR WRIT OF CERTIORARI

Questions Involved

Because of the vague, indefinite, incoherent, unrelated and scandalous nature of the petitioner's pleadings, it is most difficult, if not impossible, to determine what questions petitioner is presenting herein. It is the best judgment of respondents that petitioner is attempting to present the following questions:

1. On the merits, did the Circuit Court of Appeals act properly in affirming the action of the District Court?

2. Was Circuit Court Judge Goodrich disqualified to hear the appeal from the Court below?

Statement of Case

The opinion of the District Court filed on April 13, 1944, holds that the complaint filed in the action (2800) is so involved, disconnected and incoherent as to be fatally defective, and states that in the action (728) the allegations against the sole remaining defendant disclosed alleged claims which long since have been outlawed by the statute of limitations.

It is therein stated:

> "The history of the activities of this plaintiff of the Court of the States of Utah, New York and New Jersey, extending over a period of many years, presents an amazing record of incoherence and futility. Many hours have been devoted to a study of the voluminous data brought to the attention of the Court in this connection. However, I do not deem it necessary at this state of the case to pass upon the question of plaintiff's capacity to sue as a party."

The appeal made before the Circuit Court constitutes an incoherent attack upon the motives and integrity of the Judge who filed the opinion below. It is patently absurd.

Argument of Respondents

I. On the merits, the Circuit Court of Appeals acted properly in affirming the action of the District Court.

(a) Petitioner's pleadings and brief contained matters which are vague, indefinite, incoherent, unrelated and scandalous. There is therein presented a continuation of petitioner's misguided policy of attacking the motives and integrity of each and every judicial officer before whom he has appeared throughout many years of litigous activity.

On page 12 through 17 of the petition for writ of certiorari, there are listed a number of bills of complaint that petitioner, Nicholas J. Curtis, has filed against various and sundry large corporations, including Paramount Famous Lasky Corporation, Pathe Exchange, Inc., Harold Lloyd Corporation, Associated Exhibitors, Inc., American Telephone & Telegraph Company, etc.

On pages 13, 14 and 15 of petitioner's brief, the integrity and motives of three District Court Judges are attacked. On page 24 of the petition for writ of certiorari the following statement appears:

> "This is a *theriody* or atrocity on the part of District Judge Guy L. Fake as well as on the part of every other Federal Judge, agent or official who entered and enter the conspiracy on behalf of the defendants and took it and take it unto themselves to suppress the administration of justice in this case and deprive the petitioner in this case of life, liberty and property to prevent him from suing the defendants and, in particular, the defendant, Utah Fuel Company, a powerful corporation which has more suits against it than any other corporation doing business in the State of Utah; which suits constituted it unworthy of belief. . . ."

Respondents respectfully refer the Court to the following excerpt from the opinion of the Supreme Court of Iowa in *Crabtree* vs. *Steele*, 115 N. W. 593:

> "Having read the said petition, motions and demurrers, this Court is of the opinion that the bulk of said petition is a confused mass of allegations which bear no relation to each other. They are impertinent and irrelevant, scandalous in their nature, and the whole petition bears upon its face evidence that it was intended to vilify and abuse the defendants, rather than a lawyer-like effort to set forth a legitimate cause of action."

(b) The matter herein presented is *res adjudicata*.

On April 15, 1944, petitioner first appealed from the opinion of the District Court filed on the 13th day of April, 1944, and the Circuit Court on May 5, 1945, filed an opinion affirming judgment of the Court below. Petitioner subsequently petitioned the Supreme Court for a writ of certiorari, and on the 9th day of October, 1945, the Clerk of the Supreme Court of the United States notified all parties that the writ of certiorari was denied.

Petitioner is presently attacking the opinion of the Circuit Court of Appeals filed December 4, 1946, which pertains to the same opinion of the District Court upon which the Circuit Court of Appeals had previously ruled, and the matter now before this Court is precisely the same matter which this Court considered prior to denying the writ of certiorari on the 9th day of October, 1945.

II. Circuit Court Judge Goodrich was qualified to hear the appeal from the order of the Court below.

The petitioner seems to base his contention that Circuit Court Judge Goodrich was disqualified upon the opinion in the case of *Moran* vs. *Dillingham*, 19 S. Ct. 620, 622; 174 U. S. 153.

It is respectfully submitted that this case is no wise in point. In *Moran* vs. *Dillingham (supra)* the Judge who sat on the Appellate Court had previously participated in a phase of the case below, and had made a ruling which constituted a factor of the appeal. In the case at bar, Circuit Court Judge Goodrich has never participated in any phase of the case herein except as Appellate Judge, and the fact that he had previously heard an appeal from the order of the Court below in no wise tended to disqualify him.

Accordingly, we urge that the petition for writ of certiorari asked by petitioner be denied.

Respectfully submitted,

H. BRUA CAMPBELL,

H. COLLIN MINTON, JR.,
Counsel for Respondents,
Utah Fuel Company, et al.

Dated: March 5, 1947.